



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1156/1 2

RCT:kjffrs

IN 1/23

VMV

DOA:.....Miner, BB0266 - Replace Land and Water Conservation Board with council

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

Don't Gen

1 AN ACT ...; relating to: the budget.

---

*Analysis by the Legislative Reference Bureau*

**AGRICULTURE**

This bill eliminates the Land and Water Conservation Board (LWCB), the membership of which includes the secretaries of administration, natural resources, and agriculture, trade and consumer protection or their designees and three members of county land conservation committees.

Under current law, LWCB has responsibilities under the Farmland Preservation Program, the Soil and Water Resource Management Program, and the program that provides financial assistance for measures to reduce water pollution from nonpoint (diffuse) sources. For example, LWCB approves farmland preservation plans and exclusive agricultural zoning ordinances for the purposes of eligibility for the farmland preservation tax credit, establishes tolerable soil erosion levels, approves soil and water conservation standards established by county land conservation committees, and reviews and affirms or reverses certain decisions related to nonpoint source water pollution from agricultural facilities. The bill eliminates some LWCB responsibilities and transfers others to DATCP.

The bill creates the Land and Water Resource Council to advise DATCP and DNR about matters related to land and water resources.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1       **SECTION 1.** 15.07 (1) (b) 10. of the statutes is repealed.

2       **SECTION 2.** 15.07 (1) (cm) of the statutes is amended to read:

3       15.07 (1) (cm) The term of one member of the government accountability board  
4 shall expire on each May 1. The terms of 3 members of the development finance  
5 board appointed under s. 15.155 (1) (a) 6. shall expire on May 1 of every  
6 even-numbered year and the terms of the other 3 members appointed under s.  
7 15.155 (1) (a) 6. shall expire on May 1 of every odd-numbered year. ~~The terms of the~~  
8 ~~3 members of the land and water conservation board appointed under s. 15.135 (4)~~  
9 ~~(b) 2. shall expire on January 1. The term of the member of the land and water~~  
10 ~~conservation board appointed under s. 15.135 (4) (b) 2m. shall expire on May 1 of an~~  
11 ~~even-numbered year.~~ The terms of members of the real estate board shall expire on  
12 July 1. The terms of the appraiser members of the real estate appraisers board and  
13 the terms of the auctioneer and auction company representative members of the  
14 auctioneer board shall expire on May 1 in an even-numbered year. The terms of the  
15 members of the cemetery board shall expire on July 1 in an even-numbered year.  
16 The term of the student member of the Board of Regents of the University of  
17 Wisconsin System who is at least 24 years old shall expire on May 1 of every  
18 even-numbered year.

19       **SECTION 3.** 15.07 (5) (h) of the statutes is repealed.

20       **SECTION 4.** 15.135 (4) of the statutes is repealed.

21       **SECTION 5.** 15.137 (3) of the statutes is created to read:

1           15.137 (3) LAND AND WATER RESOURCE COUNCIL. (a) *Voting members*. There is  
2   created in the department of agriculture, trade and consumer protection a land and  
3   water resource council with the following voting members:

4           1. A representative of an agricultural organization appointed for a 4-year term.  
5           2. A representative of an environmental organization appointed for a 4-year  
6   term.

7           3. A representative of county government appointed for a 4-year term.

8           4. The secretary of agriculture, trade and consumer protection *or the secretary's*  
*designee*

9           5. The secretary of natural resources *or the secretary's*  
*designee*

10          6. The dean of the College of Agricultural and Life Sciences of the University  
11   of Wisconsin-Madison *or the dean's designee*

12          7. The chancellor of the University of Wisconsin-Extension *or the chancellor's*  
*designee*

13          (b) *Nonvoting members*. In addition to the voting members under par. (a), the  
14   Wisconsin state conservationist of the natural resource conservation service of the  
15   federal department of agriculture and the Wisconsin state executive director of the  
16   farm service agency of the federal department of agriculture may serve as nonvoting  
17   members of the land and water resource council.

18          **SECTION 6.** 36.25 (7) of the statutes is amended to read:

19          36.25 (7) SOIL AND WATER CONSERVATION. The board is responsible for research  
20   and educational programs regarding soil and water conservation. The board shall  
21   cooperate with ~~the land and water conservation board~~, the department of  
22   agriculture, trade and consumer protection and the counties in carrying out its soil  
23   and water conservation programs. The board shall prepare annually a written  
24   program of planned educational activities in soil and water conservation.

25          **SECTION 7.** 91.01 (2) of the statutes is repealed.

1       **SECTION 8.** 91.03 of the statutes is amended to read:

2       **91.03 Interdepartmental cooperation.** All other departments and agencies  
3 of state government shall cooperate with the ~~board and the~~ department in the  
4 exchange of information concerning projects and activities, including takings under  
5 eminent domain, which might jeopardize the preservation of land contemplated by  
6 this chapter. The department shall periodically advise other departments and  
7 agencies of state government of the location and description of land upon which there  
8 exist farmland preservation agreements or zoning for exclusively agricultural use  
9 and the departments and agencies shall administer their planning and projects  
10 consistent with the purposes of this chapter.

11       **SECTION 9.** 91.05 (1) of the statutes is amended to read:

12       **91.05 (1)** For the purpose of assisting local units of government to preserve  
13 agricultural lands, the department and the department of commerce, under  
14 standards prepared by the ~~board~~ department, and in connection with other state  
15 agencies, counties and county land conservation committees shall prepare or cause  
16 to be prepared, maps that locate lands in the state which should be considered for  
17 preservation because of their agricultural significance.

18       **SECTION 10.** 91.06 of the statutes is amended to read:

19       **91.06 Certification.** The ~~board~~ department shall review farmland  
20 preservation plans and exclusive agricultural use zoning ordinances submitted to it  
21 under ss. 91.61 and 91.78 and shall certify to the appropriate zoning authority  
22 whether the plans and ordinances meet the standards of subchs. IV and V,  
23 respectively. Certifications may be in whole or in part.

24       **SECTION 11.** 91.07 of the statutes is repealed and recreated to read:

1           **91.07 Rule-making authority.** The department may promulgate rules to  
2       implement this chapter.

3           **SECTION 12.** 91.13 (7) of the statutes is amended to read:

4           91.13 (7) If the application for a farmland preservation agreement is rejected  
5       by the local governing body ~~or the department~~, the application shall be returned to  
6       the applicant with a written statement regarding the reasons for rejection. Within  
7       30 days after receipt of the rejected application, the applicant may appeal the  
8       rejection to the ~~board~~ department. The ~~board~~ department shall, within 60 days after  
9       the appeal has been received, upon consideration of the factors listed in sub. (4) (a)  
10      to (g), approve or reject the application.

11          **SECTION 13.** 91.13 (8) (intro.) of the statutes is amended to read:

12          91.13 (8) (intro.) If an application is approved by the department ~~or, on appeal,~~  
13      ~~by the board~~, the department shall prepare and send to the applicant a farmland  
14      preservation agreement which shall include the following provisions:

15          **SECTION 14.** 91.13 (11) of the statutes is amended to read:

16          91.13 (11) An applicant may reapply for a farmland preservation agreement  
17      following a one-year waiting period from notice of final determination of the original  
18      application by the local governing body having jurisdiction, the department, the  
19      ~~board~~ or a court on appeal.

20          **SECTION 15.** 91.19 (3) of the statutes is amended to read:

21          91.19 (3) If the request for relinquishment of the farmland preservation  
22      agreement or release of part of the land from the agreement is approved by the local  
23      governing body having jurisdiction, a copy of the application, along with the  
24      comments and recommendations of the reviewing agencies, shall be forwarded to the  
25      ~~board~~ department. The ~~board~~ department shall, within 60 days, upon consideration

1 of the factors in sub. (2) (b) and (c) 2., approve or reject the application for  
2 relinquishment or release. If the ~~board~~ department approves the application it shall  
3 notify the local governing body having jurisdiction and the department of revenue,  
4 prepare an instrument under sub. (7) and record it with the register of deeds of the  
5 county in which the land is located.

6 **SECTION 16.** 91.19 (5) of the statutes is amended to read:

7 91.19 (5) If the application for relinquishment of the agreement or release of  
8 part of the land from the agreement is rejected by the local governing body having  
9 jurisdiction, the application shall be returned to the applicant with a written  
10 statement regarding the reasons for rejection. Within 30 days after receipt of the  
11 rejected application, the applicant may appeal the rejection to the ~~board~~ department.  
12 The ~~board~~ department shall, within 60 days after the appeal has been received, upon  
13 consideration of the factors listed in sub. (2) (b) and (c) 2., approve or reject the  
14 request for relinquishment or release. If the ~~board~~ department approves the  
15 application it shall notify the local governing body having jurisdiction and the  
16 department of revenue, prepare an instrument under sub. (7) and record it with the  
17 register of deeds of the county in which the land is located.

18 **SECTION 17.** 91.19 (6s) (a) 1. of the statutes is amended to read:

19 91.19 (6s) (a) 1. An application for release of the land, made by either the owner  
20 or the local unit of government, is approved by the local governing body having  
21 jurisdiction ~~and the board~~ under the procedures of subs. (2) to (5).

22 **SECTION 18.** 91.19 (6s) (b) of the statutes is amended to read:

23 91.19 (6s) (b) If an owner of land subject to a farmland preservation agreement  
24 opposes an application brought by a local unit of government for release of that land,

1 the owner may appeal the approval of that application by the local governing body  
2 having jurisdiction to the ~~board~~ department according to the procedures in par. (c).

3 **SECTION 19.** 91.19 (6s) (c) of the statutes is amended to read:

4 91.19 (6s) (c) If the application for release of any land from the agreement is  
5 approved by the local governing body having jurisdiction, the application shall be  
6 returned to the applicant, and a copy of the application to the owner, with a written  
7 statement regarding the reasons for approval. Within 30 days after receipt of a copy  
8 of the approved application, the owner may appeal the approval to the ~~board~~  
9 department. The ~~board~~ department shall, within 60 days after the appeal has been  
10 received, upon consideration of the factors listed in sub. (2) (b) and (c) 2., approve or  
11 reject the request to disapprove the release. If the ~~board~~ department approves the  
12 owner's appeal it shall notify the local governing body having jurisdiction.

13 **SECTION 20.** 91.19 (6s) (d) of the statutes is amended to read:

14 91.19 (6s) (d) The ~~board~~ department may waive its approval authority under  
15 this subsection for applications affecting less than 5 acres of land.

16 **SECTION 21.** 91.61 of the statutes is amended to read:

17 **91.61 Certification.** Upon completion of county agricultural preservation  
18 plans described in this subchapter, copies of the plan may be submitted to the ~~board~~  
19 department for review and certification under s. 91.06.

20 **SECTION 22.** 91.78 of the statutes is amended to read:

21 **91.78 Certification.** Copies of exclusive agricultural zoning ordinances may  
22 be submitted to the ~~board~~ department for review and certification under s. 91.06.

23 **SECTION 23.** 92.03 (2) of the statutes is repealed.

24 **SECTION 24.** 92.04 of the statutes is repealed.

25 **SECTION 25.** 92.045 of the statutes is created to read:

1           **92.045 Land and water resource council.** The land and water resource  
2 council shall advise the department of agriculture, trade and consumer protection  
3 and the department of natural resources on all of the following:

4           (1) The implementation of this chapter and ch. 281, including on the joint  
5 annual grant allocation plan under ss. 92.14 (13) and 281.65 (4) (p).

6           (2) Research, information, and education needs related to the implementation  
7 of this chapter and ch. 281.

8           (3) Coordination of federal, state, and local programs related to land and water  
9 resources that are relevant to the implementation of this chapter and ch. 281.

10          (4) Other matters related to land and water resources, at the joint request of  
11 the department of agriculture, trade and consumer protection and the department  
12 of natural resources.

13          **SECTION 26.** 92.05 (3) (c) of the statutes is amended to read:

14          92.05 (3) (c) *Rules.* The department shall promulgate rules governing  
15 implementation of this chapter and distribution of state or federal funds by the  
16 department to the counties. ~~The department shall comply with the procedures under~~  
17 ~~s. 92.04 (3) in promulgating these rules.~~

18          **SECTION 27.** 92.05 (3) (i) of the statutes is repealed.

19          **SECTION 28.** 92.05 (3) (m) of the statutes is created to read:

20          92.05 (3) (m) *Tolerable erosion level.* The department shall establish a tolerable  
21 erosion level based on an erosion rate that is acceptable and that maintains  
22 long-term soil productivity.

23          **SECTION 29.** 92.10 (1) of the statutes is amended to read:



1           92.10 (1) CREATION. There is created a land and water resource management  
2     planning program. The department, ~~board~~ and land conservation committees jointly  
3     shall develop and administer this program. *Insert 9-3*

4           **SECTION 30.** 92.10 (5) of the statutes is repealed.

5           **SECTION 31.** 92.10 (6) (a) 3. of the statutes is amended to read:

6           92.10 (6) (a) 3. Identifies the best management practices to achieve the  
7     objectives under subd. 2. and to achieve the tolerable erosion level under s. ~~92.04~~ (2)  
8     (i) 92.05 (3) (m).

9           **SECTION 32.** 92.10 (6) (d) of the statutes is amended to read:

10          92.10 (6) (d) *Plan submission*. A land conservation committee shall submit the  
11     land and water resource management plan to the ~~board~~ and department.

12          **SECTION 33.** 92.105 (1) to (3) of the statutes are amended to read:

13          92.105 (1) ESTABLISHMENT. A land conservation committee shall establish soil  
14     and water conservation standards. The standards for agricultural facilities and  
15     practices that are constructed or begun on or after October 14, 1997, and, if  
16     cost-sharing is available to the farmer under s. 92.14 or 281.65 or from any other  
17     source, for agricultural facilities and practices that are constructed or begun before  
18     that date shall be consistent with the performance standards, prohibitions,  
19     conservation practices and technical standards under s. 281.16 (3). It shall submit  
20     these standards to the board department for review. *Insert 9-20*

21          (2) GUIDELINES; REVIEW. The ~~board~~ department shall develop guidelines to be  
22     used for the establishment and administration of soil and water conservation  
23     standards. The ~~board~~ department shall review and shall approve or disapprove  
24     submitted soil and water conservation standards based on the guidelines it develops.

1 If the ~~board~~ department approves soil and water conservation standards, it shall  
2 notify any appropriate zoning authority of its approval.

3 (3) APPROVED STANDARDS REQUIRED FOR FARMLAND PRESERVATION CREDIT. A  
4 farmland preservation credit may not be allowed under subch. IX of ch. 71 for claims  
5 relating to any land to which this section applies unless the land conservation  
6 committee for the county where the property is located establishes soil and water  
7 conservation standards which are approved by the ~~board~~ department.

8 **SECTION 34.** 92.14 (6) (b) of the statutes is amended to read:

9 92.14 (6) (b) The department and the department of natural resources shall  
10 prepare an annual grant allocation plan identifying the amounts to be provided to  
11 counties under this section and ss. 281.65 and 281.66. In the allocation plan, the  
12 departments shall attempt to provide funding under this section for an average of  
13 3 staff persons per county with full funding for the first staff person, 70% funding for  
14 the 2nd staff person and 50% funding for any additional staff persons and to provide  
15 an average of \$100,000 per county for cost-sharing grants. ~~The department shall~~  
16 ~~submit that plan to the board.~~

17 **SECTION 35.** 92.14 (6) (d) of the statutes is repealed.

18 **SECTION 36.** 92.14 (12) of the statutes is repealed.

19 **SECTION 37.** 92.14 (13) of the statutes is amended to read:

20 92.14 (13) EVALUATION PLAN. The department, jointly with the department of  
21 natural resources, shall prepare a plan, which includes water quality monitoring and  
22 analysis, for evaluating the program administered under this section and s. 281.65  
23 ~~and submit the plan to the board. The board shall make recommendations to the~~  
24 ~~department and the department of natural resources on the plan. The department~~  
25 ~~shall review and approve or disapprove the plan and shall notify the board of its final~~

1 ~~action on the plan.~~ The department shall implement any part of the plan for which  
2 the plan gives it responsibility.

3 **SECTION 38.** 92.17 (2) (c) of the statutes is repealed.

4 **SECTION 39.** 281.20 (5) of the statutes is repealed.

5 **SECTION 40.** 281.65 (2) (be) of the statutes is amended to read:

6 281.65 (2) (be) "Priority lake" means any lake or group of lakes that are  
7 identified under ~~sub. s. 281.65~~ (3) (am), 2007 stats.

8 **SECTION 41.** 281.65 (2) (c) of the statutes is amended to read:

9 281.65 (2) (c) "Priority watershed" means any watershed that is identified  
10 under ~~sub. s. 281.65~~ (3) (am), 2007 stats., or ~~sub.~~ (4) (cm) or (co).

11 **SECTION 42.** 281.65 (3) of the statutes is repealed.

12 **SECTION 43.** 281.65 (3m) of the statutes is repealed.

13 **SECTION 44.** 281.65 (4) (c) of the statutes is amended to read:

14 281.65 (4) (c) Prepare a list of the watersheds in this state in order of the level  
15 of impairment of the waters in each watershed caused by nonpoint source pollution,  
16 taking into consideration the location of impaired water bodies that the department  
17 has identified to the federal environmental protection agency under 33 USC 1313 (d)  
18 (1) (A), ~~and submit the list to the board~~ no later than January 1, 1998.

19 **SECTION 45.** 281.65 (4) (cd) of the statutes is amended to read:

20 281.65 (4) (cd) Prepare a list of the lakes in this state in order of the level of  
21 impairment of the waters in the lakes caused by nonpoint source pollution, taking  
22 into consideration the location of impaired water bodies that the department has  
23 identified to the federal environmental protection agency under 33 USC 1313 (d) (1)  
24 (A), ~~and submit the list to the board~~ no later than January 1, 1998.

25 **SECTION 46.** 281.65 (4) (cg) of the statutes is repealed.

1       **SECTION 47.** 281.65 (4) (e) of the statutes is amended to read:

2       281.65 (4) (e) Promulgate rules, in consultation with the department of  
3       agriculture, trade and consumer protection, as are necessary for the proper  
4       execution and administration of the program under this section. Before  
5       ~~promulgating rules under this paragraph, the department shall submit the rules to~~  
6       ~~the land and water conservation board for review under sub. (3) (at).~~ The rules shall  
7       include standards and specifications concerning best management practices which  
8       are required for eligibility for cost-sharing grants under this section. The standards  
9       and specifications shall be consistent with the performance standards, prohibitions,  
10      conservation practices and technical standards under s. 281.16. The department  
11      may waive the standards and specifications in exceptional cases. The rules shall  
12      specify which best management practices are cost-effective best management  
13      practices. Only persons involved in the administration of the program under this  
14      section, persons who are grant recipients or applicants and persons who receive  
15      notices of intent to issue orders under s. 281.20 (1) (b) are subject to the rules  
16      promulgated under this paragraph. Any rule promulgated under this paragraph  
17      which relates or pertains to agricultural practices relating to animal waste handling  
18      and treatment is subject to s. 13.565.

19      **SECTION 48.** 281.65 (4) (f) of the statutes is amended to read:

20      281.65 (4) (f) Administer the distribution of grants and aids to governmental  
21      units for local administration and implementation of the program under this section.  
22      A grant awarded under this section may be used for cost-sharing for management  
23      practices and capital improvements, easements, or other activities determined by  
24      the department to satisfy the requirements of this section. A grant under this section  
25      to a lake district for a priority lake ~~identified under sub. (3m) (b) 1.~~ may be used for

1 plan preparation, technical assistance, educational and training assistance, and  
2 ordinance development and administration. A grant may not be used for  
3 promotional items, except for promotional items that are used for informational  
4 purposes, such as brochures or videos.

5 **SECTION 49.** 281.65 (4) (k) of the statutes is repealed.

6 **SECTION 50.** 281.65 (4) (L) of the statutes is repealed.

7 **SECTION 51.** 281.65 (4) (o) of the statutes is repealed.

8 **SECTION 52.** 281.65 (4) (p) of the statutes is amended to read:

9 281.65 (4) (p) Jointly with the department of agriculture, trade and consumer  
10 protection, prepare the plan required under s. 92.14 (13). ~~The department shall~~  
11 ~~review and approve or disapprove the plan and shall notify the land and water~~  
12 ~~conservation board of its final action on the plan.~~ The department shall implement  
13 any part of the plan for which the plan gives it responsibility.

14 **SECTION 53.** 281.65 (4) (q) of the statutes is repealed.

15 **SECTION 54.** 281.65 (4) (s) of the statutes is repealed.

16 **SECTION 55.** 281.65 (4c) (b) of the statutes is amended to read:

17 281.65 (4c) (b) The department shall use the system under par. (d) to determine  
18 the score of each project for which it receives an application under par. (a) and shall  
19 ~~inform the land and water conservation board of the scores no later than September~~  
20 ~~1 of each year.~~

21 **SECTION 56.** 281.65 (4c) (c) of the statutes is amended to read:

22 281.65 (4c) (c) After determining project scores under par. (b), ~~the department~~  
23 ~~shall notify the land and water conservation board of the projects that the~~  
24 ~~department proposes to select for funding in the following year.~~ The board shall  
25 ~~review the proposal and make recommendations to the department.~~ Before and

1 before November 1 of each year, the department shall select projects for funding  
2 under this subsection in the following year. To the extent practicable, within the  
3 requirements of this section, the department shall select projects so that projects are  
4 distributed evenly around this state.

5 **SECTION 57.** 281.65 (4m) (d) of the statutes is amended to read:

6 281.65 (4m) (d) After the department considers the comments of the  
7 department of agriculture, trade and consumer protection on a plan under par. (c)  
8 and receives approval of the plan by every county to which it was sent and by the land  
9 and water conservation board, the department shall designate the plan to be an  
10 element of the appropriate areawide water quality management plan under P.L.  
11 92-500, section 208.

12 **SECTION 58.** 281.65 (5m) of the statutes is amended to read:

13 281.65 (5m) Upon completion of plans by the department under sub. (4) (g), the  
14 governmental unit or regional planning commission under sub. (4m) and the  
15 department of agriculture, trade and consumer protection under sub. (5), and upon  
16 receiving the approval of the land and water conservation board, the department  
17 shall prepare and approve the final plan for a priority watershed or priority lake.

18 **SECTION 59.** 281.65 (5q) (a) of the statutes is amended to read:

19 281.65 (5q) (a) Notwithstanding sub. (5s), ~~neither the department nor the land~~  
20 ~~and water conservation board~~ may not extend funding under this section for a  
21 priority watershed or priority lake project beyond the funding termination date that  
22 was in effect for the priority watershed or priority lake project on January 1, 2001,  
23 except as provided in par. (b).

24 **SECTION 60.** 281.65 (5s) of the statutes is amended to read:

1           281.65 (5s) The department may make modifications, including designating  
2 additional sites as critical sites, in a priority watershed or priority lake plan with the  
3 approval of every county to which the department sent the original plan under sub.  
4 (4m) (c) ~~and of the land and water conservation board~~. If the owner or operator of  
5 a site prevails in a final review under sub. (7) or the site is not designated as a critical  
6 site in the original plan under sub. (5m) and the pollution is from an agricultural  
7 source and is not caused by animal waste, the department may not make a  
8 modification designating the site as a critical site unless the designation is based on  
9 a substantial increase in pollution from the site, on information about pollution from  
10 the site that was not available when the plan was prepared or on a substantial  
11 change to the criteria for designating a site as a critical site. This subsection applies  
12 to a priority watershed or priority lake plan completed before, on or after August 12,  
13 1993.

14           **SECTION 61.** 281.65 (5w) of the statutes is amended to read:

15           281.65 (5w) After the ~~land and water conservation board approves~~ department  
16 completes a priority watershed or priority lake plan or a modification to such a plan  
17 that designates a site to be a critical site, the department shall notify the owner or  
18 operator of that site of the designation and of the provisions in sub. (7) and either s.  
19 281.20 or, if the pollution is caused primarily by animal waste, ss. NR 243.21 to  
20 243.26, Wis. adm. code.

21           **SECTION 62.** 281.65 (7) (b) of the statutes is repealed.

22           **SECTION 63.** 281.65 (7) (c) of the statutes is amended to read:

23           281.65 (7) (c) The owner or operator of a site designated as a critical site in a  
24 priority watershed or priority lake plan under sub. (5m) or in a modification to such  
25 a plan under sub. (5s) may request a contested case hearing under ch. 227 to review

1 the decision of the ~~land and water conservation board~~ under par. (b) a county land  
2 conservation committee under par. (a) 2. by filing a written request with the  
3 department within 60 days after receiving an adverse decision of the ~~land and water~~  
4 ~~conservation board~~ county land conservation committee.

5 **SECTION 64.** 281.65 (8) (f) of the statutes is amended to read:

6 281.65 (8) (f) A cost-sharing grant shall equal the percentage of the cost of  
7 implementing the best management practice that is determined by the  
8 governmental unit submitting the application under sub. (4c) (a) or (4e) (a) ~~and is~~  
9 ~~approved by the board~~, except as provided under pars. (gm) and (jm) and except that  
10 a cost-sharing grant may not exceed 70% of the cost of implementing the best  
11 management practice.

12 **SECTION 65.** 281.65 (11) of the statutes is amended to read:

13 281.65 (11) ~~Notwithstanding subs. (3) (am) and (3m), the~~ The South Fork of the  
14 Hay River is a priority watershed for the period ending on June 30, 2005.  
15 Notwithstanding subs. (2) (a), (4) (dm), (e), (em) and (g) 4., (4m) (b) 3. and (8) (b) and  
16 (e), the department, in consultation with the local units of government involved with  
17 the priority watershed project, shall establish guidelines for the types of nonpoint  
18 source water pollution abatement practices to be eligible for cost-sharing grants in  
19 the watershed. Notwithstanding sub. (8) (f), the amount of a cost-sharing grant in  
20 the watershed may be based on the amount of pollution reduction achieved rather  
21 than on the cost of the practices installed, using guidelines developed by the  
22 department, in consultation with the local units of government involved with the  
23 priority watershed project. In providing funding under s. 92.14 (3), the department  
24 of agriculture, trade and consumer protection shall determine the amount of  
25 matching funds required for staff for the priority watershed project as though the



1 funding termination date of June 30, 2005, had been in effect on October 6, 1998. The  
2 department and the local governmental staff involved with the priority watershed  
3 project shall evaluate the cost effectiveness of the project and the reduction in  
4 nonpoint source water pollution associated with the project.

5 **SECTION 66.** 283.84 (5) of the statutes is amended to read:

6 283.84 (5) Beginning no later than September 1, 1998, and annually thereafter,  
7 the department shall report to the governor, and the secretary of administration ~~and~~  
8 ~~the land and water conservation board~~ on the progress and status of each pilot project  
9 in achieving water quality goals and coordinating state and local efforts to improve  
10 water quality.

11 **SECTION 9103. Nonstatutory provisions; Agriculture, Trade and**  
12 **Consumer Protection.**

13 (1) INITIAL TERMS OF MEMBERS OF THE LAND AND WATER RESOURCE COUNCIL.  
14 Notwithstanding the length of terms specified in section 15.137 (3) (a) 1. to 3. of the  
15 statutes, as created by this act, the initial members of the land and water resource  
16 council appointed under section 15.137 (3) (a) 1. and 2. of the statutes, as created by  
17 this act, shall serve for terms that expire on July 1, 2011, and the initial member of  
18 the land and water resource council appointed under section 15.137 (3) (a) 3. of the  
19 statutes, as created by this act, shall serve for a term that ends on July 1, 2013.

20 (END)

**2009-2010 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1156/2ins  
RCT:.....

1           **Insert 9-3**

2     not The department shall consult with the department of natural resources in  
3     developing and administering this program.

4           **Insert 9-20**

5     not The department shall consult with the department of natural resources in  
6     conducting its review.



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1156/2 3

RCT:kjf:ph

In 1/30

rmr

DOA:.....Miner, BB0266 - Replace Land and Water Conservation Board with council

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

Note

Don't Gen

1 AN ACT ...; relating to: the budget.

---

*Analysis by the Legislative Reference Bureau*

**AGRICULTURE**

This bill eliminates the Land and Water Conservation Board (LWCB), the membership of which includes the secretaries of administration, natural resources, and agriculture, trade and consumer protection or their designees and three members of county land conservation committees.

Under current law, LWCB has responsibilities under the Farmland Preservation Program, the Soil and Water Resource Management Program, and the program that provides financial assistance for measures to reduce water pollution from nonpoint (diffuse) sources. For example, LWCB approves farmland preservation plans and exclusive agricultural zoning ordinances for the purposes of eligibility for the farmland preservation tax credit, establishes tolerable soil erosion levels, approves soil and water conservation standards established by county land conservation committees, and reviews and affirms or reverses certain decisions related to nonpoint source water pollution from agricultural facilities. The bill eliminates some LWCB responsibilities and transfers others to DATCP.

The bill creates the Land and Water Resource Council to advise DATCP and DNR about matters related to land and water resources.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 15.07 (1) (b) 10. of the statutes is repealed.

2           **SECTION 2.** 15.07 (1) (cm) of the statutes is amended to read:

3           15.07 (1) (cm) The term of one member of the government accountability board

4           shall expire on each May 1. The terms of 3 members of the ~~development finance~~

5           <sup>economic policy</sup> board appointed under s. 15.155 ~~(1) (a) 6.~~ <sup>(2) (a) 4.</sup> shall expire on May 1 of every

6           even-numbered year and the terms of the other 3 members appointed under s.

7           15.155 ~~(1) (a) 6.~~ <sup>(2) (a) 4.</sup> shall expire on May 1 of every odd-numbered year. The terms of the

8           ~~3 members of the land and water conservation board appointed under s. 15.135 (4)~~

9           ~~(b) 2. shall expire on January 1. The term of the member of the land and water~~

10          ~~conservation board appointed under s. 15.135 (4) (b) 2m. shall expire on May 1 of an~~

11          ~~even-numbered year.~~ The terms of members of the real estate board shall expire on

12          July 1. The terms of the appraiser members of the real estate appraisers board and

13          the terms of the auctioneer and auction company representative members of the

14          auctioneer board shall expire on May 1 in an even-numbered year. The terms of the

15          members of the cemetery board shall expire on July 1 in an even-numbered year.

16          The term of the student member of the Board of Regents of the University of

17          Wisconsin System who is at least 24 years old shall expire on May 1 of every

18          even-numbered year.

19          **SECTION 3.** 15.07 (5) (h) of the statutes is repealed.

20          **SECTION 4.** 15.135 (4) of the statutes is repealed.

21          **SECTION 5.** 15.137 (3) of the statutes is created to read:

1           15.137 (3) LAND AND WATER RESOURCE COUNCIL. (a) *Voting members.* There is  
2           created in the department of agriculture, trade and consumer protection a land and  
3           water resource council with the following voting members:

- 4           1. A representative of an agricultural organization appointed for a 4-year term.  
5           2. A representative of an environmental organization appointed for a 4-year  
6           term.  
7           3. A representative of county government appointed for a 4-year term.  
8           4. The secretary of agriculture, trade and consumer protection or the  
9           secretary's designee.  
10          5. The secretary of natural resources or the secretary's designee.  
11          6. The dean of the College of Agricultural and Life Sciences of the University  
12          of Wisconsin-Madison or the dean's designee.  
13          7. The chancellor of the University of Wisconsin-Extension or the chancellor's  
14          designee.

15           (b) *Nonvoting members.* In addition to the voting members under par. (a), the  
16           Wisconsin state conservationist of the natural resource conservation service of the  
17           federal department of agriculture and the Wisconsin state executive director of the  
18           farm service agency of the federal department of agriculture may serve as nonvoting  
19           members of the land and water resource council.

20           **SECTION 6.** 36.25 (7) of the statutes is amended to read:

21           36.25 (7) SOIL AND WATER CONSERVATION. The board is responsible for research  
22           and educational programs regarding soil and water conservation. The board shall  
23           cooperate with the land and water conservation board, the department of  
24           agriculture, trade and consumer protection and the counties in carrying out its soil

1 and water conservation programs. The board shall prepare annually a written  
2 program of planned educational activities in soil and water conservation.

3 **SECTION 7.** 91.01 (2) of the statutes is repealed.

4 **SECTION 8.** 91.03 of the statutes is amended to read:

5 **91.03 Interdepartmental cooperation.** All other departments and agencies  
6 of state government shall cooperate with the board and the department in the  
7 exchange of information concerning projects and activities, including takings under  
8 eminent domain, which might jeopardize the preservation of land contemplated by  
9 this chapter. The department shall periodically advise other departments and  
10 agencies of state government of the location and description of land upon which there  
11 exist farmland preservation agreements or zoning for exclusively agricultural use  
12 and the departments and agencies shall administer their planning and projects  
13 consistent with the purposes of this chapter.

14 **SECTION 9.** 91.05 (1) of the statutes is amended to read:

15 91.05 (1) For the purpose of assisting local units of government to preserve  
16 agricultural lands, the department and the department of commerce, under  
17 standards prepared by the board department, and in connection with other state  
18 agencies, counties and county land conservation committees shall prepare or cause  
19 to be prepared, maps that locate lands in the state which should be considered for  
20 preservation because of their agricultural significance.

21 **SECTION 10.** 91.06 of the statutes is amended to read:

22 **91.06 Certification.** The board department shall review farmland  
23 preservation plans and exclusive agricultural use zoning ordinances submitted to it  
24 under ss. 91.61 and 91.78 and shall certify to the appropriate zoning authority

1 whether the plans and ordinances meet the standards of subchs. IV and V,  
2 respectively. Certifications may be in whole or in part.

3 **SECTION 11.** 91.07 of the statutes is repealed and recreated to read:

4 **91.07 Rule-making authority.** The department may promulgate rules to  
5 implement this chapter.

6 **SECTION 12.** 91.13 (7) of the statutes is amended to read:

7 91.13 (7) If the application for a farmland preservation agreement is rejected  
8 by the local governing body ~~or the department~~, the application shall be returned to  
9 the applicant with a written statement regarding the reasons for rejection. Within  
10 30 days after receipt of the rejected application, the applicant may appeal the  
11 rejection to the ~~board~~ department. The ~~board~~ department shall, within 60 days after  
12 the appeal has been received, upon consideration of the factors listed in sub. (4) (a)  
13 to (g), approve or reject the application.

14 **SECTION 13.** 91.13 (8) (intro.) of the statutes is amended to read:

15 91.13 (8) (intro.) If an application is approved by the department ~~or, on appeal,~~  
16 ~~by the board~~, the department shall prepare and send to the applicant a farmland  
17 preservation agreement which shall include the following provisions:

18 **SECTION 14.** 91.13 (11) of the statutes is amended to read:

19 91.13 (11) An applicant may reapply for a farmland preservation agreement  
20 following a one-year waiting period from notice of final determination of the original  
21 application by the local governing body having jurisdiction, the department, the  
22 ~~board~~ or a court on appeal.

23 **SECTION 15.** 91.19 (3) of the statutes is amended to read:

24 91.19 (3) If the request for relinquishment of the farmland preservation  
25 agreement or release of part of the land from the agreement is approved by the local

1 governing body having jurisdiction, a copy of the application, along with the  
2 comments and recommendations of the reviewing agencies, shall be forwarded to the  
3 board department. The board department shall, within 60 days, upon consideration  
4 of the factors in sub. (2) (b) and (c) 2., approve or reject the application for  
5 relinquishment or release. If the board department approves the application it shall  
6 notify the local governing body having jurisdiction and the department of revenue,  
7 prepare an instrument under sub. (7) and record it with the register of deeds of the  
8 county in which the land is located.

9 **SECTION 16.** 91.19 (5) of the statutes is amended to read:

10 91.19 (5) If the application for relinquishment of the agreement or release of  
11 part of the land from the agreement is rejected by the local governing body having  
12 jurisdiction, the application shall be returned to the applicant with a written  
13 statement regarding the reasons for rejection. Within 30 days after receipt of the  
14 rejected application, the applicant may appeal the rejection to the board department.  
15 The board department shall, within 60 days after the appeal has been received, upon  
16 consideration of the factors listed in sub. (2) (b) and (c) 2., approve or reject the  
17 request for relinquishment or release. If the board department approves the  
18 application it shall notify the local governing body having jurisdiction and the  
19 department of revenue, prepare an instrument under sub. (7) and record it with the  
20 register of deeds of the county in which the land is located.

21 **SECTION 17.** 91.19 (6s) (a) 1. of the statutes is amended to read:

22 91.19 (6s) (a) 1. An application for release of the land, made by either the owner  
23 or the local unit of government, is approved by the local governing body having  
24 jurisdiction and the ~~board~~ under the procedures of subs. (2) to (5).

25 **SECTION 18.** 91.19 (6s) (b) of the statutes is amended to read:



1           **91.19 (6s) (b)** If an owner of land subject to a farmland preservation agreement  
2           opposes an application brought by a local unit of government for release of that land,  
3           the owner may appeal the approval of that application by the local governing body  
4           having jurisdiction to the ~~board~~ department according to the procedures in par. (c).

5           **SECTION 19.** 91.19 (6s) (c) of the statutes is amended to read:

6           **91.19 (6s) (c)** If the application for release of any land from the agreement is  
7           approved by the local governing body having jurisdiction, the application shall be  
8           returned to the applicant, and a copy of the application to the owner, with a written  
9           statement regarding the reasons for approval. Within 30 days after receipt of a copy  
10          of the approved application, the owner may appeal the approval to the ~~board~~  
11          department. The ~~board~~ department shall, within 60 days after the appeal has been  
12          received, upon consideration of the factors listed in sub. (2) (b) and (c) 2., approve or  
13          reject the request to disapprove the release. If the ~~board~~ department approves the  
14          owner's appeal it shall notify the local governing body having jurisdiction.

15          **SECTION 20.** 91.19 (6s) (d) of the statutes is amended to read:

16          **91.19 (6s) (d)** The ~~board~~ department may waive its approval authority under  
17          this subsection for applications affecting less than 5 acres of land.

18          **SECTION 21.** 91.61 of the statutes is amended to read:

19          **91.61 Certification.** Upon completion of county agricultural preservation  
20          plans described in this subchapter, copies of the plan may be submitted to the ~~board~~  
21          department for review and certification under s. 91.06.

22          **SECTION 22.** 91.78 of the statutes is amended to read:

23          **91.78 Certification.** Copies of exclusive agricultural zoning ordinances may  
24          be submitted to the ~~board~~ department for review and certification under s. 91.06.

25          **SECTION 23.** 92.03 (2) of the statutes is repealed.

1 **SECTION 24.** 92.04 of the statutes is repealed.

2 *Insert*  
*8-1* **SECTION 25.** 92.045 of the statutes is created to read:

3 **92.045 Land and water resource council.** The land and water resource  
4 council shall advise the department of agriculture, trade and consumer protection  
5 and the department of natural resources on all of the following:

6 (1) The implementation of this chapter and ch. 281, including on the joint  
7 annual grant allocation plan under ss. 92.14 (13) and 281.65 (4) (p).

8 (2) Research, information, and education needs related to the implementation  
9 of this chapter and ch. 281.

10 (3) Coordination of federal, state, and local programs related to land and water  
11 resources that are relevant to the implementation of this chapter and ch. 281.

12 (4) Other matters related to land and water resources, at the joint request of  
13 the department of agriculture, trade and consumer protection and the department  
14 of natural resources.

15 **SECTION 26.** 92.05 (3) (c) of the statutes is amended to read:

16 92.05 (3) (c) *Rules.* The department shall promulgate rules governing  
17 implementation of this chapter and distribution of state or federal funds by the  
18 department to the counties. ~~The department shall comply with the procedures under~~  
19 ~~s. 92.04 (3) in promulgating these rules.~~

20 **SECTION 27.** 92.05 (3) (i) of the statutes is repealed.

21 **SECTION 28.** 92.05 (3) (m) of the statutes is created to read:

22 92.05 (3) (m) *Tolerable erosion level.* The department shall establish a tolerable  
23 erosion level based on an erosion rate that is acceptable and that maintains  
24 long-term soil productivity.

25 **SECTION 29.** 92.10 (1) of the statutes is amended to read:

1           92.10 (1) CREATION. There is created a land and water resource management  
2     planning program. The department, ~~board~~ and land conservation committees jointly  
3     shall develop and administer this program. The department shall consult with the  
4     department of natural resources in developing and administering this program.

5           **SECTION 30.** 92.10 (5) of the statutes is repealed.

6           **SECTION 31.** 92.10 (6) (a) 3. of the statutes is amended to read:

7           92.10 (6) (a) 3. Identifies the best management practices to achieve the  
8     objectives under subd. 2. and to achieve the tolerable erosion level under s. 92.04 (2)  
9     (i) 92.05 (3) (m).

10          **SECTION 32.** 92.10 (6) (d) of the statutes is amended to read:

11          92.10 (6) (d) *Plan submission.* A land conservation committee shall submit the  
12     land and water resource management plan to the ~~board~~ and department.

13          **SECTION 33.** ~~92.105 (1) to (3)~~ of the statutes are amended to read:

14          92.105 (1) ESTABLISHMENT. A land conservation committee shall establish soil  
15     and water conservation standards. The standards for agricultural facilities and  
16     practices that are constructed or begun on or after October 14, 1997, and, if  
17     cost-sharing is available to the farmer under s. 92.14 or 281.65 or from any other  
18     source, for agricultural facilities and practices that are constructed or begun before  
19     that date shall be consistent with the performance standards, prohibitions,  
20     conservation practices and technical standards under s. 281.16 (3). It shall submit  
21     these standards to the ~~board~~ department for review. The department shall consult  
22     with the department of natural resources in conducting its review.

23          (2) GUIDELINES; REVIEW. The ~~board~~ department shall develop guidelines to be  
24     used for the establishment and administration of soil and water conservation  
25     standards. The ~~board~~ department shall review and shall approve or disapprove

submitted soil and water conservation standards based on the guidelines it develops. If the ~~board~~ department approves soil and water conservation standards, it shall notify any appropriate zoning authority of its approval.

(3) APPROVED STANDARDS REQUIRED FOR FARMLAND PRESERVATION CREDIT. A farmland preservation credit may not be allowed under subch. IX of ch. 71 for claims relating to any land to which this section applies unless the land conservation committee for the county where the property is located establishes soil and water conservation standards which are approved by the ~~board~~ department.

**SECTION 34.** 92.14 (6) (b) of the statutes is amended to read:

92.14 (6) (b) The department and the department of natural resources shall prepare an annual grant allocation plan identifying the amounts to be provided to counties under this section and ss. 281.65 and 281.66. In the allocation plan, the departments shall attempt to provide funding under this section for an average of 3 staff persons per county with full funding for the first staff person, 70% funding for the 2nd staff person and 50% funding for any additional staff persons and to provide an average of \$100,000 per county for cost-sharing grants. ~~The department shall submit that plan to the board.~~

**SECTION 35.** 92.14 (6) (d) of the statutes is repealed.

**SECTION 36.** 92.14 (12) of the statutes is repealed.

**SECTION 37.** 92.14 (13) of the statutes is amended to read:

92.14 (13) EVALUATION PLAN. The department, jointly with the department of natural resources, shall prepare a plan, which includes water quality monitoring and analysis, for evaluating the program administered under this section and s. 281.65 and ~~submit the plan to the board. The board shall make recommendations to the department and the department of natural resources on the plan. The department~~

1 ~~shall review and approve or disapprove the plan and shall notify the board of its final~~  
2 ~~action on the plan.~~ The department shall implement any part of the plan for which  
3 the plan gives it responsibility.

4 **SECTION 38.** 92.17 (2) (c) of the statutes is repealed.

5 **SECTION 39.** 281.20 (5) of the statutes is repealed.

6 **SECTION 40.** 281.65 (2) (be) of the statutes is amended to read:

7 281.65 (2) (be) "Priority lake" means any lake or group of lakes that are  
8 identified under ~~sub. s. 281.65 (3) (am), 2007 stats.~~

9 **SECTION 41.** 281.65 (2) (c) of the statutes is amended to read:

10 281.65 (2) (c) "Priority watershed" means any watershed that is identified  
11 under ~~sub. s. 281.65 (3) (am), 2007 stats., or sub. (4) (cm) or (co).~~

12 **SECTION 42.** 281.65 (3) of the statutes is repealed.

13 **SECTION 43.** 281.65 (3m) of the statutes is repealed.

14 **SECTION 44.** 281.65 (4) (c) of the statutes is amended to read:

15 281.65 (4) (c) Prepare a list of the watersheds in this state in order of the level  
16 of impairment of the waters in each watershed caused by nonpoint source pollution,  
17 taking into consideration the location of impaired water bodies that the department  
18 has identified to the federal environmental protection agency under 33 USC 1313 (d)  
19 (1) (A), ~~and submit the list to the board no later than January 1, 1998.~~

20 **SECTION 45.** 281.65 (4) (cd) of the statutes is amended to read:

21 281.65 (4) (cd) Prepare a list of the lakes in this state in order of the level of  
22 impairment of the waters in the lakes caused by nonpoint source pollution, taking  
23 into consideration the location of impaired water bodies that the department has  
24 identified to the federal environmental protection agency under 33 USC 1313 (d) (1)  
25 (A), ~~and submit the list to the board no later than January 1, 1998.~~

1       **SECTION 46.** 281.65 (4) (cg) of the statutes is repealed.

2       **SECTION 47.** 281.65 (4) (e) of the statutes is amended to read:

3       281.65 (4) (e) Promulgate rules, in consultation with the department of  
4       agriculture, trade and consumer protection, as are necessary for the proper  
5       execution and administration of the program under this section. Before  
6       promulgating rules under this paragraph, the department shall submit the rules to  
7       the land and water conservation board for review under sub. (3) (at). The rules shall  
8       include standards and specifications concerning best management practices which  
9       are required for eligibility for cost-sharing grants under this section. The standards  
10      and specifications shall be consistent with the performance standards, prohibitions,  
11      conservation practices and technical standards under s. 281.16. The department  
12      may waive the standards and specifications in exceptional cases. The rules shall  
13      specify which best management practices are cost-effective best management  
14      practices. Only persons involved in the administration of the program under this  
15      section, persons who are grant recipients or applicants and persons who receive  
16      notices of intent to issue orders under s. 281.20 (1) (b) are subject to the rules  
17      promulgated under this paragraph. Any rule promulgated under this paragraph  
18      which relates or pertains to agricultural practices relating to animal waste handling  
19      and treatment is subject to s. 13.565.

20      **SECTION 48.** 281.65 (4) (f) of the statutes is amended to read:

21      281.65 (4) (f) Administer the distribution of grants and aids to governmental  
22      units for local administration and implementation of the program under this section.  
23      A grant awarded under this section may be used for cost-sharing for management  
24      practices and capital improvements, easements, or other activities determined by  
25      the department to satisfy the requirements of this section. A grant under this section

1 to a lake district for a priority lake identified under sub. (3m) (b) 1. may be used for  
2 plan preparation, technical assistance, educational and training assistance, and  
3 ordinance development and administration. A grant may not be used for  
4 promotional items, except for promotional items that are used for informational  
5 purposes, such as brochures or videos.

6 **SECTION 49.** 281.65 (4) (k) of the statutes is repealed.

7 **SECTION 50.** 281.65 (4) (L) of the statutes is repealed.

8 **SECTION 51.** 281.65 (4) (o) of the statutes is repealed.

9 **SECTION 52.** 281.65 (4) (p) of the statutes is amended to read:

10 281.65 (4) (p) Jointly with the department of agriculture, trade and consumer  
11 protection, prepare the plan required under s. 92.14 (13). ~~The department shall~~  
12 ~~review and approve or disapprove the plan and shall notify the land and water~~  
13 ~~conservation board of its final action on the plan.~~ The department shall implement  
14 any part of the plan for which the plan gives it responsibility.

15 **SECTION 53.** 281.65 (4) (q) of the statutes is repealed.

16 **SECTION 54.** 281.65 (4) (s) of the statutes is repealed.

17 **SECTION 55.** 281.65 (4c) (b) of the statutes is amended to read:

18 281.65 (4c) (b) The department shall use the system under par. (d) to determine  
19 the score of each project for which it receives an application under par. (a) and shall  
20 ~~inform the land and water conservation board of the scores no later than September~~  
21 ~~1 of each year.~~

22 **SECTION 56.** 281.65 (4c) (c) of the statutes is amended to read:

23 281.65 (4c) (c) After determining project scores under par. (b), ~~the department~~  
24 ~~shall notify the land and water conservation board of the projects that the~~  
25 ~~department proposes to select for funding in the following year. The board shall~~

1 ~~review the proposal and make recommendations to the department. Before and~~  
2 ~~before~~ November 1 of each year, the department shall select projects for funding  
3 under this subsection in the following year. To the extent practicable, within the  
4 requirements of this section, the department shall select projects so that projects are  
5 distributed evenly around this state.

6 **SECTION 57.** 281.65 (4m) (d) of the statutes is amended to read:

7 281.65 (4m) (d) After the department considers the comments of the  
8 department of agriculture, trade and consumer protection on a plan under par. (c)  
9 and receives approval of the plan by every county to which it was sent and by the land  
10 and water conservation board, the department shall designate the plan to be an  
11 element of the appropriate areawide water quality management plan under P.L.  
12 92-500, section 208.

13 **SECTION 58.** 281.65 (5m) of the statutes is amended to read:

14 281.65 (5m) Upon completion of plans by the department under sub. (4) (g), the  
15 governmental unit or regional planning commission under sub. (4m) and the  
16 department of agriculture, trade and consumer protection under sub. (5), and upon  
17 receiving the approval of the land and water conservation board, the department  
18 shall prepare and approve the final plan for a priority watershed or priority lake.

19 **SECTION 59.** 281.65 (5q) (a) of the statutes is amended to read:

20 281.65 (5q) (a) Notwithstanding sub. (5s), neither the department nor the land  
21 and water conservation board may not extend funding under this section for a  
22 priority watershed or priority lake project beyond the funding termination date that  
23 was in effect for the priority watershed or priority lake project on January 1, 2001,  
24 except as provided in par. (b).

25 **SECTION 60.** 281.65 (5s) of the statutes is amended to read:



1           281.65 (5s) The department may make modifications, including designating  
2 additional sites as critical sites, in a priority watershed or priority lake plan with the  
3 approval of every county to which the department sent the original plan under sub.  
4 (4m) (c) ~~and of the land and water conservation board~~. If the owner or operator of  
5 a site prevails in a final review under sub. (7) or the site is not designated as a critical  
6 site in the original plan under sub. (5m) and the pollution is from an agricultural  
7 source and is not caused by animal waste, the department may not make a  
8 modification designating the site as a critical site unless the designation is based on  
9 a substantial increase in pollution from the site, on information about pollution from  
10 the site that was not available when the plan was prepared or on a substantial  
11 change to the criteria for designating a site as a critical site. This subsection applies  
12 to a priority watershed or priority lake plan completed before, on or after August 12,  
13 1993.

14           **SECTION 61.** 281.65 (5w) of the statutes is amended to read:

15           281.65 (5w) After the ~~land and water conservation board approves~~ department  
16 completes a priority watershed or priority lake plan or a modification to such a plan  
17 that designates a site to be a critical site, the department shall notify the owner or  
18 operator of that site of the designation and of the provisions in sub. (7) and either s.  
19 281.20 or, if the pollution is caused primarily by animal waste, ss. NR 243.21 to  
20 243.26, Wis. adm. code.

21           **SECTION 62.** 281.65 (7) (b) of the statutes is repealed.

22           **SECTION 63.** 281.65 (7) (c) of the statutes is amended to read:

23           281.65 (7) (c) The owner or operator of a site designated as a critical site in a  
24 priority watershed or priority lake plan under sub. (5m) or in a modification to such  
25 a plan under sub. (5s) may request a contested case hearing under ch. 227 to review

1 the decision of the ~~land and water conservation board under par. (b)~~ a county land  
2 conservation committee under par. (a) 2. by filing a written request with the  
3 department within 60 days after receiving an adverse decision of the ~~land and water~~  
4 ~~conservation board~~ county land conservation committee.

5 **SECTION 64.** 281.65 (8) (f) of the statutes is amended to read:

6 281.65 (8) (f) A cost-sharing grant shall equal the percentage of the cost of  
7 implementing the best management practice that is determined by the  
8 governmental unit submitting the application under sub. (4c) (a) or (4e) (a) ~~and is~~  
9 ~~approved by the board~~, except as provided under pars. (gm) and (jm) and except that  
10 a cost-sharing grant may not exceed 70% of the cost of implementing the best  
11 management practice.

12 **SECTION 65.** 281.65 (11) of the statutes is amended to read:

13 281.65 (11) ~~Notwithstanding subs. (3) (am) and (3m), the~~ The South Fork of the  
14 Hay River is a priority watershed for the period ending on June 30, 2005.  
15 Notwithstanding subs. (2) (a), (4) (dm), (e), (em) and (g) 4., (4m) (b) 3. and (8) (b) and  
16 (e), the department, in consultation with the local units of government involved with  
17 the priority watershed project, shall establish guidelines for the types of nonpoint  
18 source water pollution abatement practices to be eligible for cost-sharing grants in  
19 the watershed. Notwithstanding sub. (8) (f), the amount of a cost-sharing grant in  
20 the watershed may be based on the amount of pollution reduction achieved rather  
21 than on the cost of the practices installed, using guidelines developed by the  
22 department, in consultation with the local units of government involved with the  
23 priority watershed project. In providing funding under s. 92.14 (3), the department  
24 of agriculture, trade and consumer protection shall determine the amount of  
25 matching funds required for staff for the priority watershed project as though the

1 funding termination date of June 30, 2005, had been in effect on October 6, 1998. The  
2 department and the local governmental staff involved with the priority watershed  
3 project shall evaluate the cost effectiveness of the project and the reduction in  
4 nonpoint source water pollution associated with the project.

5 **SECTION 66.** 283.84 (5) of the statutes is amended to read:

6 283.84 (5) Beginning no later than September 1, 1998, and annually thereafter,  
7 the department shall report to the governor, and the secretary of administration ~~and~~  
8 ~~the land and water conservation board~~ on the progress and status of each pilot project  
9 in achieving water quality goals and coordinating state and local efforts to improve  
10 water quality.

11 **SECTION 9103. Nonstatutory provisions; Agriculture, Trade and**  
12 **Consumer Protection.**

13 (1) INITIAL TERMS OF MEMBERS OF THE LAND AND WATER RESOURCE COUNCIL.  
14 Notwithstanding the length of terms specified in section 15.137 (3) (a) 1. to 3. of the  
15 statutes, as created by this act, the initial members of the land and water resource  
16 council appointed under section 15.137 (3) (a) 1. and 2. of the statutes, as created by  
17 this act, shall serve for terms that expire on July 1, 2011, and the initial member of  
18 the land and water resource council appointed under section 15.137 (3) (a) 3. of the  
19 statutes, as created by this act, shall serve for a term that ends on July 1, 2013.

20 (END)

*Note*

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB  
.....

-1156/3 ins

Insert 2-18

15.07 (1) (cm)

\*\*\*\*NOTE: This is reconciled s. 1. This SECTION has been affected by drafts with the following LRB numbers:

-1156/13 and 1578/13

Insert  
8-1

\*\*\*\*NOTE: This is reconciled s. 17. This SECTION has been affected by drafts with the following LRB numbers:

the treatment of  
1192.04 and 13  
-0203/13-1156/13

\*\*\*\*NOTE: This is reconciled s. . This SECTION has been affected by drafts with the following LRB numbers:

\*\*\*\*NOTE: This is reconciled s. . This SECTION has been affected by drafts with the following LRB numbers:

\*\*\*\*NOTE: This is reconciled s. . This SECTION has been affected by drafts with the following LRB numbers:

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1156/3dn

RCT...  
gfc

Date

①② ③④ 12 1P3

This draft reconciles LRB-0203, LRB-0280, LRB-1156 and LRB-1578. All of these drafts should continue to appear in the compiled bill.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: [becky.tradewell@legis.wisconsin.gov](mailto:becky.tradewell@legis.wisconsin.gov)

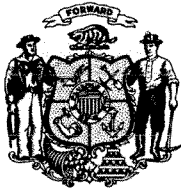
**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1156/3dn  
RCT:kjf:ph

January 30, 2009

This draft reconciles LRB-0203/1, LRB-0280/2, LRB-1156/2 and LRB-1578/P3. All of these drafts should continue to appear in the compiled bill.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: [becky.tradewell@legis.wisconsin.gov](mailto:becky.tradewell@legis.wisconsin.gov)



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1156/3

RCT:kjf:ph

DOA:.....Miner, BB0266 - Replace Land and Water Conservation Board with  
council

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

---

*Analysis by the Legislative Reference Bureau*

**AGRICULTURE**

This bill eliminates the Land and Water Conservation Board (LWCB), the membership of which includes the secretaries of administration, natural resources, and agriculture, trade and consumer protection or their designees and three members of county land conservation committees.

Under current law, LWCB has responsibilities under the Farmland Preservation Program, the Soil and Water Resource Management Program, and the program that provides financial assistance for measures to reduce water pollution from nonpoint (diffuse) sources. For example, LWCB approves farmland preservation plans and exclusive agricultural zoning ordinances for the purposes of eligibility for the farmland preservation tax credit, establishes tolerable soil erosion levels, approves soil and water conservation standards established by county land conservation committees, and reviews and affirms or reverses certain decisions related to nonpoint source water pollution from agricultural facilities. The bill eliminates some LWCB responsibilities and transfers others to DATCP.

The bill creates the Land and Water Resource Council to advise DATCP and DNR about matters related to land and water resources.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1       **SECTION 1.** 15.07 (1) (b) 10. of the statutes is repealed.

2       **SECTION 2.** 15.07 (1) (cm) of the statutes is amended to read:

3       15.07 (1) (cm) The term of one member of the government accountability board  
4 shall expire on each May 1. The terms of 3 members of the development finance  
5 economic policy board appointed under s. 15.155 (1) (a) 6. (2) (a) 4. shall expire on May  
6 1 of every even-numbered year and the terms of the other 3 members appointed  
7 under s. 15.155 (1) (a) 6. (2) (a) 4. shall expire on May 1 of every odd-numbered year.  
8 ~~The terms of the 3 members of the land and water conservation board appointed~~  
9 ~~under s. 15.135 (4) (b) 2. shall expire on January 1. The term of the member of the~~  
10 ~~land and water conservation board appointed under s. 15.135 (4) (b) 2m. shall expire~~  
11 ~~on May 1 of an even-numbered year. The terms of members of the real estate board~~  
12 ~~shall expire on July 1. The terms of the appraiser members of the real estate~~  
13 ~~appraisers board and the terms of the auctioneer and auction company~~  
14 ~~representative members of the auctioneer board shall expire on May 1 in an~~  
15 ~~even-numbered year. The terms of the members of the cemetery board shall expire~~  
16 ~~on July 1 in an even-numbered year. The term of the student member of the Board~~  
17 ~~of Regents of the University of Wisconsin System who is at least 24 years old shall~~  
18 ~~expire on May 1 of every even-numbered year.~~

      \*\*\*NOTE: This is reconciled s. 15.07 (1) (cm). This SECTION has been affected by  
drafts with the following LRB numbers: 1156/3 and 1578/P3.

19       **SECTION 3.** 15.07 (5) (h) of the statutes is repealed.

20       **SECTION 4.** 15.135 (4) of the statutes is repealed.



1           **SECTION 5.** 15.137 (3) of the statutes is created to read:

2           15.137 (3) LAND AND WATER RESOURCE COUNCIL. (a) *Voting members.* There is  
3           created in the department of agriculture, trade and consumer protection a land and  
4           water resource council with the following voting members:

5           1. A representative of an agricultural organization appointed for a 4-year term.

6           2. A representative of an environmental organization appointed for a 4-year  
7           term.

8           3. A representative of county government appointed for a 4-year term.

9           4. The secretary of agriculture, trade and consumer protection or the  
10          secretary's designee.

11          5. The secretary of natural resources or the secretary's designee.

12          6. The dean of the College of Agricultural and Life Sciences of the University  
13          of Wisconsin-Madison or the dean's designee.

14          7. The chancellor of the University of Wisconsin-Extension or the chancellor's  
15          designee.

16          (b) *Nonvoting members.* In addition to the voting members under par. (a), the  
17          Wisconsin state conservationist of the natural resource conservation service of the  
18          federal department of agriculture and the Wisconsin state executive director of the  
19          farm service agency of the federal department of agriculture may serve as nonvoting  
20          members of the land and water resource council.

21          **SECTION 6.** 36.25 (7) of the statutes is amended to read:

22          36.25 (7) SOIL AND WATER CONSERVATION. The board is responsible for research  
23          and educational programs regarding soil and water conservation. The board shall  
24          cooperate with the land and water conservation board, the department of  
25          agriculture, trade and consumer protection and the counties in carrying out its soil

1 and water conservation programs. The board shall prepare annually a written  
2 program of planned educational activities in soil and water conservation.

3 **SECTION 7.** 92.03 (2) of the statutes is repealed.

4 **SECTION 8.** 92.04 of the statutes is repealed.

\*\*\*\*NOTE: This is the reconciled treatment of s. 92.04. This SECTION has been  
affected by drafts with the following LRB numbers: -0203/1 and -1156/3.

5 **SECTION 9.** 92.045 of the statutes is created to read:

6 **92.045 Land and water resource council.** The land and water resource  
7 council shall advise the department of agriculture, trade and consumer protection  
8 and the department of natural resources on all of the following:

9 (1) The implementation of this chapter and ch. 281, including on the joint  
10 annual grant allocation plan under ss. 92.14 (13) and 281.65 (4) (p).

11 (2) Research, information, and education needs related to the implementation  
12 of this chapter and ch. 281.

13 (3) Coordination of federal, state, and local programs related to land and water  
14 resources that are relevant to the implementation of this chapter and ch. 281.

15 (4) Other matters related to land and water resources, at the joint request of  
16 the department of agriculture, trade and consumer protection and the department  
17 of natural resources.

18 **SECTION 10.** 92.05 (3) (c) of the statutes is amended to read:

19 92.05 (3) (c) *Rules.* The department shall promulgate rules governing  
20 implementation of this chapter and distribution of state or federal funds by the  
21 department to the counties. ~~The department shall comply with the procedures under~~  
22 ~~s. 92.04 (3) in promulgating these rules.~~

23 **SECTION 11.** 92.05 (3) (i) of the statutes is repealed.

1           **SECTION 12.** 92.05 (3) (m) of the statutes is created to read:

2           92.05 (3) (m) *Tolerable erosion level.* The department shall establish a tolerable  
3           erosion level based on an erosion rate that is acceptable and that maintains  
4           long-term soil productivity.

5           **SECTION 13.** 92.10 (1) of the statutes is amended to read:

6           92.10 (1) CREATION. There is created a land and water resource management  
7           planning program. The department, ~~board~~ and land conservation committees jointly  
8           shall develop and administer this program. The department shall consult with the  
9           department of natural resources in developing and administering this program.

10          **SECTION 14.** 92.10 (5) of the statutes is repealed.

11          **SECTION 15.** 92.10 (6) (a) 3. of the statutes is amended to read:

12          92.10 (6) (a) 3. Identifies the best management practices to achieve the  
13          objectives under subd. 2. and to achieve the tolerable erosion level under s. ~~92.04 (2)~~  
14          (i) 92.05 (3) (m).

15          **SECTION 16.** 92.10 (6) (d) of the statutes is amended to read:

16          92.10 (6) (d) *Plan submission.* A land conservation committee shall submit the  
17          land and water resource management plan to the ~~board~~ and department.

18          **SECTION 17.** 92.14 (6) (b) of the statutes is amended to read:

19          92.14 (6) (b) The department and the department of natural resources shall  
20          prepare an annual grant allocation plan identifying the amounts to be provided to  
21          counties under this section and ss. 281.65 and 281.66. In the allocation plan, the  
22          departments shall attempt to provide funding under this section for an average of  
23          3 staff persons per county with full funding for the first staff person, 70% funding for  
24          the 2nd staff person and 50% funding for any additional staff persons and to provide

1 an average of \$100,000 per county for cost-sharing grants. ~~The department shall~~  
2 ~~submit that plan to the board.~~

3 **SECTION 18.** 92.14 (6) (d) of the statutes is repealed.

4 **SECTION 19.** 92.14 (12) of the statutes is repealed.

5 **SECTION 20.** 92.14 (13) of the statutes is amended to read:

6 92.14 (13) EVALUATION PLAN. The department, jointly with the department of  
7 natural resources, shall prepare a plan, which includes water quality monitoring and  
8 analysis, for evaluating the program administered under this section and s. 281.65  
9 ~~and submit the plan to the board. The board shall make recommendations to the~~  
10 ~~department and the department of natural resources on the plan. The department~~  
11 ~~shall review and approve or disapprove the plan and shall notify the board of its final~~  
12 ~~action on the plan.~~ The department shall implement any part of the plan for which  
13 the plan gives it responsibility.

14 **SECTION 21.** 92.17 (2) (c) of the statutes is repealed.

15 **SECTION 22.** 281.20 (5) of the statutes is repealed.

16 **SECTION 23.** 281.65 (2) (be) of the statutes is amended to read:

17 281.65 (2) (be) "Priority lake" means any lake or group of lakes that are  
18 identified under ~~sub. s. 281.65 (3) (am), 2007 stats.~~

19 **SECTION 24.** 281.65 (2) (c) of the statutes is amended to read:

20 281.65 (2) (c) "Priority watershed" means any watershed that is identified  
21 under ~~sub. s. 281.65 (3) (am), 2007 stats., or sub. (4) (cm) or (co).~~

22 **SECTION 25.** 281.65 (3) of the statutes is repealed.

23 **SECTION 26.** 281.65 (3m) of the statutes is repealed.

24 **SECTION 27.** 281.65 (4) (c) of the statutes is amended to read:

1           281.65 (4) (c) Prepare a list of the watersheds in this state in order of the level  
2           of impairment of the waters in each watershed caused by nonpoint source pollution,  
3           taking into consideration the location of impaired water bodies that the department  
4           has identified to the federal environmental protection agency under 33 USC 1313 (d)  
5           (1) (A), ~~and submit the list to the board~~ no later than January 1, 1998.

6           **SECTION 28.** 281.65 (4) (cd) of the statutes is amended to read:

7           281.65 (4) (cd) Prepare a list of the lakes in this state in order of the level of  
8           impairment of the waters in the lakes caused by nonpoint source pollution, taking  
9           into consideration the location of impaired water bodies that the department has  
10          identified to the federal environmental protection agency under 33 USC 1313 (d) (1)  
11          (A), ~~and submit the list to the board~~ no later than January 1, 1998.

12          **SECTION 29.** 281.65 (4) (cg) of the statutes is repealed.

13          **SECTION 30.** 281.65 (4) (e) of the statutes is amended to read:

14          281.65 (4) (e) Promulgate rules, in consultation with the department of  
15          agriculture, trade and consumer protection, as are necessary for the proper  
16          execution and administration of the program under this section. Before  
17          ~~promulgating rules under this paragraph, the department shall submit the rules to~~  
18          ~~the land and water conservation board for review under sub. (3) (at).~~ The rules shall  
19          include standards and specifications concerning best management practices which  
20          are required for eligibility for cost-sharing grants under this section. The standards  
21          and specifications shall be consistent with the performance standards, prohibitions,  
22          conservation practices and technical standards under s. 281.16. The department  
23          may waive the standards and specifications in exceptional cases. The rules shall  
24          specify which best management practices are cost-effective best management  
25          practices. Only persons involved in the administration of the program under this

1 section, persons who are grant recipients or applicants and persons who receive  
2 notices of intent to issue orders under s. 281.20 (1) (b) are subject to the rules  
3 promulgated under this paragraph. Any rule promulgated under this paragraph  
4 which relates or pertains to agricultural practices relating to animal waste handling  
5 and treatment is subject to s. 13.565.

6 **SECTION 31.** 281.65 (4) (f) of the statutes is amended to read:

7 281.65 (4) (f) Administer the distribution of grants and aids to governmental  
8 units for local administration and implementation of the program under this section.  
9 A grant awarded under this section may be used for cost-sharing for management  
10 practices and capital improvements, easements, or other activities determined by  
11 the department to satisfy the requirements of this section. A grant under this section  
12 to a lake district for a priority lake identified under sub. (3m) (b) 1. may be used for  
13 plan preparation, technical assistance, educational and training assistance, and  
14 ordinance development and administration. A grant may not be used for  
15 promotional items, except for promotional items that are used for informational  
16 purposes, such as brochures or videos.

17 **SECTION 32.** 281.65 (4) (k) of the statutes is repealed.

18 **SECTION 33.** 281.65 (4) (L) of the statutes is repealed.

19 **SECTION 34.** 281.65 (4) (o) of the statutes is repealed.

20 **SECTION 35.** 281.65 (4) (p) of the statutes is amended to read:

21 281.65 (4) (p) Jointly with the department of agriculture, trade and consumer  
22 protection, prepare the plan required under s. 92.14 (13). ~~The department shall~~  
23 ~~review and approve or disapprove the plan and shall notify the land and water~~  
24 ~~conservation board of its final action on the plan.~~ The department shall implement  
25 any part of the plan for which the plan gives it responsibility.

1           **SECTION 36.** 281.65 (4) (q) of the statutes is repealed.

2           **SECTION 37.** 281.65 (4) (s) of the statutes is repealed.

3           **SECTION 38.** 281.65 (4c) (b) of the statutes is amended to read:

4           281.65 (4c) (b) The department shall use the system under par. (d) to determine  
5           the score of each project for which it receives an application under par. (a) ~~and shall~~  
6           ~~inform the land and water conservation board of the scores no later than September~~  
7           ~~1 of each year.~~

8           **SECTION 39.** 281.65 (4c) (c) of the statutes is amended to read:

9           281.65 (4c) (c) After determining project scores under par. (b), ~~the department~~  
10          ~~shall notify the land and water conservation board of the projects that the~~  
11          ~~department proposes to select for funding in the following year. The board shall~~  
12          ~~review the proposal and make recommendations to the department. Before and~~  
13          before November 1 of each year, the department shall select projects for funding  
14          under this subsection in the following year. To the extent practicable, within the  
15          requirements of this section, the department shall select projects so that projects are  
16          distributed evenly around this state.

17          **SECTION 40.** 281.65 (4m) (d) of the statutes is amended to read:

18          281.65 (4m) (d) After the department considers the comments of the  
19          department of agriculture, trade and consumer protection on a plan under par. (c)  
20          and receives approval of the plan by every county to which it was sent ~~and by the land~~  
21          ~~and water conservation board~~, the department shall designate the plan to be an  
22          element of the appropriate areawide water quality management plan under P.L.  
23          92-500, section 208.

24          **SECTION 41.** 281.65 (5m) of the statutes is amended to read:

1           281.65 **(5m)** Upon completion of plans by the department under sub. (4) (g), the  
2 governmental unit or regional planning commission under sub. (4m) and the  
3 department of agriculture, trade and consumer protection under sub. (5), ~~and upon~~  
4 ~~receiving the approval of the land and water conservation board~~, the department  
5 shall prepare and approve the final plan for a priority watershed or priority lake.

6           **SECTION 42.** 281.65 (5q) (a) of the statutes is amended to read:

7           281.65 **(5q)** (a) Notwithstanding sub. (5s), ~~neither the department nor the land~~  
8 ~~and water conservation board~~ may not extend funding under this section for a  
9 priority watershed or priority lake project beyond the funding termination date that  
10 was in effect for the priority watershed or priority lake project on January 1, 2001,  
11 except as provided in par. (b).

12           **SECTION 43.** 281.65 (5s) of the statutes is amended to read:

13           281.65 **(5s)** The department may make modifications, including designating  
14 additional sites as critical sites, in a priority watershed or priority lake plan with the  
15 approval of every county to which the department sent the original plan under sub.  
16 (4m) (c) ~~and of the land and water conservation board~~. If the owner or operator of  
17 a site prevails in a final review under sub. (7) or the site is not designated as a critical  
18 site in the original plan under sub. (5m) and the pollution is from an agricultural  
19 source and is not caused by animal waste, the department may not make a  
20 modification designating the site as a critical site unless the designation is based on  
21 a substantial increase in pollution from the site, on information about pollution from  
22 the site that was not available when the plan was prepared or on a substantial  
23 change to the criteria for designating a site as a critical site. This subsection applies  
24 to a priority watershed or priority lake plan completed before, on or after August 12,  
25 1993.



1           **SECTION 44.** 281.65 (5w) of the statutes is amended to read:

2           281.65 **(5w)** After the ~~land and water conservation board approves~~ department  
3           completes a priority watershed or priority lake plan or a modification to such a plan  
4           that designates a site to be a critical site, the department shall notify the owner or  
5           operator of that site of the designation and of the provisions in sub. (7) and either s.  
6           281.20 or, if the pollution is caused primarily by animal waste, ss. NR 243.21 to  
7           243.26, Wis. adm. code.

8           **SECTION 45.** 281.65 (7) (b) of the statutes is repealed.

9           **SECTION 46.** 281.65 (7) (c) of the statutes is amended to read:

10          281.65 **(7)** (c) The owner or operator of a site designated as a critical site in a  
11          priority watershed or priority lake plan under sub. (5m) or in a modification to such  
12          a plan under sub. (5s) may request a contested case hearing under ch. 227 to review  
13          the decision of the ~~land and water conservation board under par. (b)~~ a county land  
14          conservation committee under par. (a) 2. by filing a written request with the  
15          department within 60 days after receiving an adverse decision of the ~~land and water~~  
16          ~~conservation board~~ county land conservation committee.

17          **SECTION 47.** 281.65 (11) of the statutes is amended to read:

18          281.65 **(11)** ~~Notwithstanding subs. (3) (am) and (3m), the~~ The South Fork of the  
19          Hay River is a priority watershed for the period ending on June 30, 2005.  
20          Notwithstanding subs. (2) (a), (4) (dm), (e), (em) and (g) 4., (4m) (b) 3. and (8) (b) and  
21          (e), the department, in consultation with the local units of government involved with  
22          the priority watershed project, shall establish guidelines for the types of nonpoint  
23          source water pollution abatement practices to be eligible for cost-sharing grants in  
24          the watershed. Notwithstanding sub. (8) (f), the amount of a cost-sharing grant in  
25          the watershed may be based on the amount of pollution reduction achieved rather

1 than on the cost of the practices installed, using guidelines developed by the  
2 department, in consultation with the local units of government involved with the  
3 priority watershed project. In providing funding under s. 92.14 (3), the department  
4 of agriculture, trade and consumer protection shall determine the amount of  
5 matching funds required for staff for the priority watershed project as though the  
6 funding termination date of June 30, 2005, had been in effect on October 6, 1998. The  
7 department and the local governmental staff involved with the priority watershed  
8 project shall evaluate the cost effectiveness of the project and the reduction in  
9 nonpoint source water pollution associated with the project.

10 **SECTION 48.** 283.84 (5) of the statutes is amended to read:

11 283.84 (5) Beginning no later than September 1, 1998, and annually thereafter,  
12 the department shall report to the governor, and the secretary of administration ~~and~~  
13 ~~the land and water conservation board~~ on the progress and status of each pilot project  
14 in achieving water quality goals and coordinating state and local efforts to improve  
15 water quality.

16 **SECTION 9103. Nonstatutory provisions; Agriculture, Trade and**  
17 **Consumer Protection.**

18 (1) INITIAL TERMS OF MEMBERS OF THE LAND AND WATER RESOURCE COUNCIL.  
19 Notwithstanding the length of terms specified in section 15.137 (3) (a) 1. to 3. of the  
20 statutes, as created by this act, the initial members of the land and water resource  
21 council appointed under section 15.137 (3) (a) 1. and 2. of the statutes, as created by  
22 this act, shall serve for terms that expire on July 1, 2011, and the initial member of  
23 the land and water resource council appointed under section 15.137 (3) (a) 3. of the  
24 statutes, as created by this act, shall serve for a term that ends on July 1, 2013.

25 (END)